IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 28389 of 1995

Between:

1 Nadimpalli Bheems Raju, S/o. Suryanarayana Raju.
R/o. Prakasam Veddhi, Amalapuram, E.G.Dist.
2 Kovvuri Srinivasa Reddy, S/o. Satyanarayana Reddy.
R/o. Ubalanka, Ravulupalem, E.G.Dist.
3 A.Naga Raju, S/o. Ramakrishna Raju. R/o. Lakkavaram,

Malkipuram, E.G.Dist.
4 Chinta Sreenivasa Reddy, S/o. Satyanarayana Reddy.
R/o. Ubalanka, Ravulupalem, E.G.Dist.
5 P.V.Siva Rama Raju, S/o. Rama Raju.
R/o. Ramarajulanka, Malkipuram, E.G.Dist.
6 Medapati Satyanarayana Reddy, S/o. Sarreddy.
R/o. Ubalanka, Ravulupalem, E.G.Dist.
7 A.Ramakrishna Raju, S/o. Narasimha Raju.
R/o. Lakkavaram, Malkipuram, E.G.Dist.
8 Konala Parreddy, S/o. Rami Reddy.
Ravulapalem, East Godavari Dist.
9 Ch. Lakshmipathi Raju, S/o. Narasimha Raju,
Rameswaram, Sakhentipalli mandal, E.G.Dist.
10 K.Ramachandra Reddy, S/o. Adireddy.
R/o. Ubalanka, Ravulupalem, E.G.Dist.
11 P.V.V.Satyanarayana Murthy, S/o. Sathyanarayana Murthy.
Razole, East Godavari.
12 P.Ramakrishna Reddy, S/o. Sura Reddy.
R/o. Ubalanka, Ravulupalem, E.G.Dist.
13 N.Suryanarayana Raju, S/o. Punyapu Raju.
R/o. Ubalanka, Ravulupalem, E.G.Dist.
14 K.Veerreddy, S/o. Surreddy. R/o. Ubalanka, Ravulupalem,

E.G.Dist.

15 Nallamilli Dora Reddy, S/o. Subba Reddy.
R/o. Ubalanka, Ravulupalem, E.G.Dist.

16 M.Tirupa Reddy, S/o. Veerreddy.
R/o. Ubalanka, Ravulupalem, E.G.Dist.

17 M.Satyanarayana Reddy, S/o. Venkata Reddy.
R/o. Gopalapuram, E.G.Dist.

18 N.V.Subba Reddy, S/o. Ramakrishna Reddy.
R/o. Ubalanka, Ravulupalem,E.G.Dist.

19 K.Satyanarayana Reddy, S/o. Chittayya.
R/o. Ubalanka, Ravulupalem, E.G.Dist.

20 V.V.Krishna Reddy, S/o. Satyanarayana Reddy.
R/o. Ubalanka, Ravulupalem, E.G.Dist.

21 Konala Nagi Reddy, S/o. Anjaneya Reddy.
R/o. Ubalanka, Ravulupalem, E.G.Dist.

22 S.Anajaneya Reddy, S/o. Veerreddy.
R/o. Ubalanka, Ravulupalem, E.G.Dist.

23 G.V.Reddy, S/o. Kondala Reddy.
R/o. Ubalanka, Ravulupalem, E.G.Dist.

..... PETITIONERS

AND

1 The Govt. of A.P., Rep. Secretary.
Revenue (CT), Secretariat,
Hyderabad.

2 The Commissioner, The Commercial Taxes Department,
A.P., Nampally, Hyderabad.

3 The Superintending Engineer, Irrigation Circle,
Dhawalaswaram, East Godavari.

4 The Superintending Engineer, Drainage Circle,
Eluru, West Godavari.

5 The Superintending Engineer, Panchayat Raj Dept.,
Eluru, West Godavari.

6 The Superintending Engineer, R & B Department,
Eluru, West Godavari.

7 The Superintending Engineer, R&B Department,
Kakinada, East Godavari.

8 The Superintending Engineer, Panchayat Raj Dept.,
Kakinada, East Godavari.

9 The Executive Engineer, A.P.Housing Board,
Tadepalligudem, West Godavari.

10 The Executive Engineer, Marketing Division.
Gollapudi, Vijayawada,
Krishna.

11 The Executive Engineer, The S.C. Co-op., Society Ltd.,
Kakinada, East Godavari.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus or any other appropriate Writ, declaring Section, 5F, 5G and 5H of the A.P.G.S.T.Amendment Act (Act No.22 of 1995) and Rule 6(3) (ii) of A.P.G.S.T. Rules as ultravires of Articles 14, 19(1) (f) and 21 of the Constitution of India by directing the 1st respondent to levy and collect sales tax inrespect of material used in works contract only at the rates applicable under various schedules in terms of Section 5(1) of the A.P.G.S.T.Act., but not under section 5F of the A.P.G.S.T.Act and consequently direct the respondents not to deduct tax at source on the total turnover of works contract from the petitioners under Sec.5H of the A.P.G.S.T. Act.

Counsel for the Petitioners:MR.N.SIVA REDDY

Counsel for the Respondent Nos.1 to 11: SPL GP FOR TAXES

The Court made the following :

ORDER: (Per Sri B. Sudershan Reddy, J)

The petitioner invokes the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India with a prayer to issue a writ of Mandamus declaring Section 5F, 5G, 5H of the Andhra Pradesh General Sales Tax Amendment Act (Act No.22 of 1995) and Rule 6(3)((ii) of A.P.G.S.T. Rules as

unconstitutional.

The subject matter that arises for our consideration in this writ petition is squarely covered by the decision reported in ***GANNON DUNKERLEY V. STATE OF ANDHRA PRADESH*** wherein the constitutional validity of the impugned provisions and the Rules have been upheld by this court.

Following the said decision, this Writ Petition shall stand dismissed without any order as to costs.

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B. SUDERSHAN REDDY,J

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C.V.RAMULU, J

21st April, 2005

To

1 The Secretary, Govt. of A.P., Revenue (CT), Secretariat, Hyderabad.
2 The Commissioner, The Commercial Taxes Department, A.P., Nampally, Hyderabad.
3 The Superintending Engineer, Irrigation Circle,

Dhawalaswaram, East Godavari.

4 The Superintending Engineer, Drainage Circle,
Eluru, West Godavari.

5 The Superintending Engineer, Panchayat Raj Dept.,
Eluru, West Godavari.

6 The Superintending Engineer, R & B Department,
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Kakinada, East Godavari.

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Tadepalligudem, West Godavari.

10 The Executive Engineer, Marketing Division.
Gollapudi, Vijayawada,
Krishna.

11 The Executive Engineer, The S.C. Co-op., Society Ltd.,
Kakinada, East Godavari.

12. Two CCs to the Special Government Pleader for Taxes, High Court building, Hyderabad. (OUT).

13. Two C.D. copies.

sj/ks.